

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4188 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

and

Hon'ble MR.JUSTICE H.K.RATHOD

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

JASHBHAI MANIBHAI PATEL

Versus

RAMILABEN BHAILALBHAI PARMAR

Appearance:

MR AJAY R MEHTA for Petitioners
RULE SERVED for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE D.C.SRIVASTAVA

and

MR.JUSTICE H.K.RATHOD

Date of decision: 20/06/2000

ORAL JUDGEMENT

This is an appeal against the interim award dated 7.5.1997 rendered by the Motor Accident Claims Tribunal, Nadiad awarding Rs.4,92,260/- as interim compensation together with interest at the rate of 12% per annum with proportionate costs.

The respondents are served. Nobody appears on their behalf. As such, learned counsel Mr. A. R. Mehta for the appellants has been heard.

Learned counsel Shri Mehta points out that there is marginal error of calculation in the amount of interim compensation awarded by the tribunal. He has drawn our attention to the age of the deceased. His age was 20 years. So, at sr. no.4 of the Second Schedule relevant for the purpose of section 163-A, total amount of compensation should have been calculated at Rs. 6,80,000/- from which 1/3rd amount has to be deducted as the amount likely to be spent by the deceased. This 1/3rd roughly comes to Rs.2,27,000. Deducting this amount, net compensation which could be awarded by the tribunal was Rs.4,53,000/-. Over and above this amount, the tribunal has awarded Rs. 2,500/- as loss to the estate; Rs.2000/on the head of funeral expenses and Rs.5,000/- on the head of consortium. Adding this amount, the total comes to Rs. 4,62,500/- As against this, the tribunal has awarded Rs.4,92,260/-. In this way, the compensation worked out by the tribunal is in excess of Rs. 30,000/-. The impugned award has, therefore, to be modified. The appeal, therefore, succeeds partly and is partly allowed. The impugned award is modified. Figure of Rs.4,92,260/in the impugned award shall be read and substituted as Rs.4,62,500/-. The amount of interest shall remain same. The cost shall be calculated proportionately. No order as to costs of this appeal.

Before parting with this judgment, the appellants are directed to deposit the sum of the modified award before the tribunal within a period of six weeks from today. On deposit being so made, the respondents claimants shall be entitled to withdraw 30% on the condition that they will file written undertaking that they will proceed with the pending claim petition under section 166 of the Motor Vehicles Act and shall not get the same dismissed for default. 70% of the balance amount shall be invested by the tribunal in fixed deposit in some nationalized bank. The interest accruing on the fixed deposit shall be payable to the respondents.

(H.K.Rathod, J.)

Vyās